

MUST HAVE LICENSE FOR CABARET SHOW

Court Holds Louis Martin and Manager in \$1,000 Bail Each.

MAYOR IS CONSULTED

Magistrate Barlow Acts After Visit to City Hall—Jealousy of Rivals Blamed by Restaurant Men.

Proprietors of restaurants where the cabaret show is given were disappointed yesterday when the test case against Louis Martin and his manager, Gaston G. Netter, was decided against the defendants by Magistrate Barlow. All the promoters of cabaret shows in town were lined up behind Mr. Martin, and they made such a brave showing ten days ago when the defendants were summoned to court by Police Captain McElroy, of the West Thirtieth street police station, that Magistrate Barlow said he would have to take time to think the matter over.

Sitting in the Jefferson Market Police Court yesterday, he said his doubts had continued until he visited Mayor Gaynor. The Mayor advised him that he ought to hold the defendants if it was shown that a performance of a theatrical nature had been given without a theatrical or concert license. Accordingly the Magistrate held Mr. Martin and Mr. Netter in \$1,000 bail each for trial on a charge of violating section No. 1,742 of the charter, which prohibits the giving of theatrical performance without a license.

Captain McElroy testified yesterday that he spent three hours of the morning of December 13 in a room on the fourth floor of Martin's restaurant, where a cabaret show was being given. During this time, he said, five or six dances were given. The dances were characterized as "imported and highly favored" dances. Two of the dances, which he described as the "Tonga" and the "Apache," were danced by a man and a woman, he said, and were unusual in their character. The defendant maintained that the performances were given for persons invited to see them, that no admission was charged and that no stage was in the room, the dancing taking place on a rug spread on the floor.

"I still think we will win out," said Mr. Martin yesterday. "In the meantime I see no reason why we should not go right on with our cabaret show. It has not yet been adjudged illegal, and until it is the nightly performance will continue." Shanley's restaurant, which gave up its cabaret show, save the singing features, when Mr. Martin was summoned to court, will not resume the dancing until the present case is disposed of. The other restaurants where cabaret shows are conducted will continue as usual unless the police interfere.

Several restaurant men who were in court yesterday said that jealousy was behind the agitation against cabaret shows. Many restaurants which do not give such entertainments, they said, have suffered from the popularity of cabaret shows, and their proprietors are anxious to put an end to them.

THE WALDORF SUES FOXHALL P. KEENE

Hotel Alleges It Has Tried Since 1910 to Collect a Bill of \$6,036.07.

Suit was filed yesterday in the Supreme Court against Foxhall P. Keene by the Waldorf-Astoria Company for \$6,036.07. It is stated in the papers that the hotel has been trying to collect the bill since 1910. It is charged that Mr. Keene between the dates of February, 1906, and October 30, 1910, contracted an indebtedness for lodging, food and money loaned amounting to \$7,036.07. He paid \$1,000 on this account, it is stated.

Foxhall P. Keene is a noted polo player and sportsman. He has been active in Wall street, and was a special partner in a brokerage firm which failed some years ago.

BOY SAYS POLICE BEAT HIM.

Declares in Court He Was Intimidated Into Pleading Guilty to Burglary Charge.

Peter Bangor, an eighteen-year-old clerk, of No. 23 West Twenty-sixth street, when arraigned in the Jefferson Market Police Court yesterday on a charge of burglary, to which he had pleaded guilty in the police station, through his lawyer said that he had been intimidated into pleading guilty by the police, who beat him after his arrest. Policeman Charles Bohan, of the West Twentieth street police station, when asked if the boy had been beaten, admitted that the lieutenant had slapped the boy's face.

Magistrate Appleton advised the boy's lawyer to take the matter up with Mayor Gaynor. The prisoner was held.

SCHREFFELS TRIAL RESUMED.

Robert H. Elder Appears as Counsel for George Graham Rice.

The trial of B. H. Schreffels & Co., George Graham Rice and others on charges of having used the mails in schemes to defraud was resumed yesterday before Judge Ray in the United States District Court after an adjournment of two weeks.

Since the last sitting of the court Rice had been arrested, locked up in the Tombs and denied bail. His arrest followed the indictment of Frank J. Byrnes on a charge of having attempted to bribe one of the jurors in the case. Rice was represented by Robert H. Elder, one time Assistant District Attorney in Brooklyn. Abram J. Rose, who previously had represented him, was not in court.

Bizarre dancing has captured New York. It affords material for a timely and novel article in next Sunday's NEW YORK HERALD.

COURT VACATES HIS BAIL.

Judge Saw Prisoner Talk to Jurors and Sends Him to Cell.

Simon Katzenstein, who is on trial before Judge Swann, in the Court of General Sessions, on a charge of bribery growing out of the alleged thefts of fresh meats from the Manhattan State Hospital, on Ward's island, was committed to the Tombs Prison yesterday afternoon, when Judge Swann vacated the \$5,000 bail under which he had been at liberty. Judge Swann said that he had seen Mr. Katzenstein improperly force himself among six of the jurors as they were leaving the courtroom after adjournment.

MURKIN WON'T STOP PACKERS' MEETINGS

J. H. Pratt Testifies—He Attended Secret Sessions After 1902 Injunction Was Issued.

HELD IN PRIVATE HOMES

Agreed Upon Percentages To Be Allotted Members of Old Pool, He Says—Attorneys Clash.

[SPECIAL DESPATCH TO THE HERALD.] CHICAGO, Ill., Monday.—"After the issuance of Judge Grosscup's injunction of 1902 the packers continued to hold secret meetings as they did before," testified Jerome H. Pratt, erstwhile packer, in the "Beef Trust" trial today.

Uneasiness was apparent in "packers' row" when this statement came from the stand, and it was accentuated when Mr. Pratt declared that at these meetings the conferees discussed current conditions of the market and agreed upon the percentages of shipments of products to be allotted to members of the old pool.

"Some of these meetings," said the witness, "were held at the residence of Gustavus F. Swift, Jesse J. Lyman, Arthur Meeker and E. A. Allen. I attended some of them."

Statements Are Renewed. "After the injunction issued there was a cessation for a time of the meetings in the Vander pool. No more marginal statements were sent out. After 1902, however, I began to get these statements again."

"From whom?" was asked. "Arthur Meeker," was the reply. Before court adjourned Judge Carpenter said that in his opinion Mr. Pratt's testimony as to Mr. Armour's handwriting on the margins of weekly statements was insufficient and should be stricken from the record.

Throughout the day the trial had the aspect of a terrific battle. Scarcely a question was asked the witness by James Wilkinson, United States District Attorney, that was not objected to and argued from a technical standpoint by some of the ten attorneys for the packers. At times all were on their feet.

Other testimony by Mr. Pratt was that on November 8, 1905, Francis A. Fowler, head of the dressed beef department of Armour & Co. wrote him to bid more than seven and three quarter cents on beef and eight and one-half cents on mutton on a contract to supply the Old Soldiers' Home at Togus, Me., in order that Swift & Co. might get the contract. He said he carried out orders.

He also testified that he gave new margins daily, in 1905, to the National Packing Company, Swift & Co. and Morris & Co. and received in exchange those concerns' margins through Arthur Meeker. In addition, he said, a weekly marginal sheet also was compiled.

Kept Special Envelope. An envelope was kept, known as the "Tuesday envelope," he said, in which were placed complaints for presentation by Mr. Meeker at the Tuesday meetings of the National Packing Company regarding margins, encroachments on territories and shipment proportions. He received each week from Mr. Meeker a slip on which was tabulated the margins and shipments of other members of the National Packing Company, upon which the margins agreed for the current week was written.

The witness said that in the period between 1903 and 1907 each member of the packers' combination knew the percentage of shipments and profit margins of every member. The information on the slips each week were frequently discussed by the managers of the dressed beef departments of the different companies. The slips were afterward destroyed, in accordance with orders.

CITY DEATH RATE LOWER.

Department of Health's Report for First Week of New Year Shows Falling Off.

Statistics compiled by the Department of Health and issued yesterday show an appreciable lowering of the death rate in this city for the first week of the new year as compared to a corresponding period a year ago. The total number of deaths in this city last week was 1,405. Last year 1,697 persons died during the first week of January. The percentage of death per thousand last year was 17.7. The rate this year is 14.7.

Explanation of the low death rate, according to the report, is found in the absence of suffering from influenza. Fifty persons died from influenza in the first week of last year. The same ailment caused only four deaths in this city last week. By reason of this the deaths from acute respiratory diseases were 133 less than in the first week of last year. There was also a reduction in the number of deaths from scarlet fever, diphtheria and tuberculosis. There was a slight increase in the number of deaths from typhoid fever.

"Sons of the Rich in Politics" are the subjects of an article in next Sunday's NEW YORK HERALD.

THREE SITES FOR NEW COURT.

Committee Ready to Report to Board of Estimate on Land Valued at \$4,000,000.

Three sites for a new County Court House will be described, it is understood, in the report to be made to the Board of Estimate by a select committee, of which George McAneny is chairman.

The committee will recommend, it is believed in City Hall, that the Court House be located just north of the Hall of Records and Municipal Building. The valuation of the land to be taken is said to be about \$4,000,000. The committee will be sent to-day, and it is expected the report will be sent to the Board of Estimate on Thursday. The Board will then have about three months under provisions of the Stillwell bill to make its selection final.

TO TELL OF REDISCOVERY.

Dr. Townsend to Lecture Before the Zoological Society.

The eighteenth annual meeting of the New York Zoological Society will be held to-night in the Waldorf-Astoria. Following the business session, at which reports will be received and a board of twelve managers for the ensuing year elected, an illustrated lecture will be delivered by Dr. Charles H. Townsend, director of the Aquarium.

Dr. Townsend will describe the recent expedition conducted under the auspices of the Zoological Society and the American Museum of Natural History to Guadalupe Island, off the coast of Southern California. His lecture will contain a description of the rediscovery of a herd of elephants and the capture of specimens now on exhibition at the Aquarium.

Freeport High School Pupils Strike

When Their Principal Is Dismissed



STRIKING STUDENTS OF FREEPORT HIGH SCHOOL LEAVING THE KNOWLEDGE PLACE

Eighty Boys and Girls Lay Down Their Books and Walk Out Because Roy L. Smith Is Ousted for Refusing to Take the Place of the Superintendent Who Was Removed Because a Teacher Had Kissed Him.

Eighty students in the high school at Freeport, L. I., about half of them girls, laid down their books and walked out yesterday when they learned that Roy L. Smith, principal of the school, had been dismissed for refusing to take the place made vacant by the dismissal of Arthur E. Barnes, formerly superintendent of the village schools.

Mr. Barnes was dismissed following his trial on the charge of misconduct, it having been alleged that he permitted one of the first persons to meet was Samuel R. Smith, president of the Board of Education, and they set up a great shouting in favor of the deposed principal.

The girls contented themselves with the slogan "Smith, Smith, we want Smith."

Some of the boys shook their fists at him. Anticipating trouble, John J. Dunbar, captain of police, took his position at the school entrance before school opened.

When Mr. Smith, the principal, reported for duty, Mr. Smith, the president, told Mr. Smith, the principal, that his services were no longer required. Mr. Smith, the principal, told Mr. Smith, the president, a pleasant good morning, and left the school. Then the pupils learned that another teacher had been placed in charge of the school and they showed their disapproval of the change by walking out.

Leaders of the strike said that if it became necessary they would call on the children in the kindergarten school to join them.

reel through faulty navigation and that the amount claimed is due for the expense of saving the vessel and bringing her here and for demurrage charges.

Chicago Girl Who Has Spent Week in Jail Returns to Cell Rather Than Talk.

[SPECIAL DESPATCH TO THE HERALD.] CHICAGO, Ill., Monday.—Local statisticians figured out to-night that, unless her present attitude undergoes an abrupt change, Miss Hazel Hogan is likely to remain a resident of the City Prison until the dawn of a new leap year.

Miss Hogan was sent to jail a week ago for refusing to testify before Justice Monroe in a case in which she was the complainant against four men.

"Are you ready to testify?" Judge Monroe asked the young woman when she appeared before him to-day again.

"No, I am not. I just will not talk," she answered.

"Let the record show that the previous sentence shall stand until Miss Hogan is ready to testify, and that a fine of \$1,700 is imposed," rejoined the Judge.

The amount of fine is the value of property which Miss Hogan reported to the police was stolen from her.

"Sons of the Rich in Politics" are the subjects of an article in next Sunday's NEW YORK HERALD.

WEIGHERS' SENTENCES AFFIRMED.

The United States Circuit Court of Appeals yesterday affirmed the judgment of the Circuit Court in the case of Charles W. Drew and Charles H. Wardell, custom weighers, who were sentenced to serve ten months each in the penitentiary. They were convicted in December, 1910, of conspiring to underweigh sugar at the Williamsburg docks.

Before he consented to plead guilty to his sister's charge Brownlee had to be urged to adopt that course by his lawyer, James Marshall, formerly an Assistant District Attorney.

"Will you make it four months if I plead guilty?" Brownlee finally said to Magistrate Appleton after Mr. Marshall had told him the least he could expect was a sentence of five months.

"Yes," answered the Magistrate, "four months."

Half way out of the courtroom, Brownlee, with tears streaming down his face, turned to the Magistrate and said: "Can't you give me a rebate on that?"

He was led out of the room by a route opposite to that taken by his sister.

LOSES IN LOVE, THEN SHOT.

Man Seeking to Recover Diamond Ring He Gave Girl Is Fatally Hurt by Husband.

BALTIMORE, Md., Monday.—George W. Cagle, of Candor, N. C., was shot and perhaps fatally wounded here to-day by Herbert H. King, another Southerner. King was Cagle's successful rival in love, he having married Mrs. Beulah Sloope, of Rome, Ga., whom Cagle avers was his betrothed.

Cagle said that he came here to recover a diamond ring he had given to Mrs. Sloope, and several hundred dollars worth of jewelry, which he had entrusted to her to save until their wedding. He encountered King in the Equitable Building to-day. There was an exchange of words and King fired. To the police King said he had heard Cagle was after him, so he bought a revolver to defend himself.

E. C. BENEDICT SUED.

Estate of Isaac Stern Seeks \$15,256 for Damage to Yacht.

Suit in admiralty was brought against Commodore E. C. Benedict, of the New York Yacht Club, by the executors of the estate of Isaac Stern for \$15,256 in the United States District Court yesterday. The stranding and abandonment of the steam yacht Virginia on a reef at Havana, Cuba, in May last year, furnished the basis for the suit. Commodore Benedict hired the yacht from the Stern estate. It is alleged that the yacht was run on the

MR. HYDE LOSES, SISTER SENDS

PLANS TO APPEAL ATTEMPT TO JAIL

Justice Lehman, Denying Change of Venue, Says Fair Trial Can Be Obtained Here.

Justice Lehman, in the Supreme Court, yesterday denied the application of Charles H. Hyde for a change of venue in his trial on a charge of bribery.

The Court announced he was confident the erstwhile City Chamberlain "can safely go to trial and get a jury capable of reaching an impartial verdict."

Soon after the decision was announced Max D. Steuer, counsel for Mr. Hyde, notified District Attorney Whitman that an appeal would be taken from Justice Lehman's decision. Mr. Whitman previously had announced that he intended calling the special panel of jurors January 11, with a view to bringing Mr. Hyde to trial on January 13 or 15. If Mr. Steuer appeals the trial will be delayed indefinitely.

In his opinion Justice Lehman touched especially upon the affidavits presented by Israel Tilden, Jr., all of which purported to show that persons in many walks of life were prejudiced against Mr. Hyde.

Justice Lehman said: "If Mr. Tilden's affidavit be not intentionally false it can be given no great weight, especially in view of the fact that he fails to state in how many cases he failed to elicit any opinion at all" from citizens upon whom he called.

Several prominent lawyers submitted statements of their opinion that Mr. Hyde could not obtain a fair trial in this county. Justice Lehman dismissed these by declaring that he considered such a course on the part of members of the Bar to be "without precedent."

District Attorney Whitman announced yesterday afternoon that he intended laying the matter of Mr. Tilden's affidavits before the Grand Jury.

COURT MONEY SHORT \$6,000.

Commissioner Fosdick Says Funds Have Been Used Privately, and Clerk Is Suspended.

Raymond B. Fosdick, Commissioner of Accounts, yesterday sent a report to Mayor Gaynor stating that the accounts of Edward A. McQuade, clerk of the Sixth District Municipal Court, are short \$4,155.68. This is made up, the report states, of a shortage in trust account funds of \$4,137.41 and of \$18.27 city fees due to the Chamberlain. The report adds: "It appears from our examination that the court moneys have been drawn out for private use. Mr. McQuade is covered by a bond for \$5,000 and the city is protected. I have notified the surety company and have laid the facts before the District Attorney."

Mr. McQuade, who has been suspended, resides at No. 27 East Eighty-seventh street, and was appointed to the clerkship with a salary of \$3,000 a year in 1904. The court is at Third avenue and Eighty-third street.

DETECTIVE IS CONVICTED.

Found Guilty of Trying to Extort \$5,000 from a Woman.

George King, a private detective, was convicted yesterday before Justice Davis, in the Criminal Branch of the Supreme Court, on a charge of attempted extortion, by declaring that he extorted \$5,000 from a woman.

The complainant against him was Mrs. Fay Tyson, who alleged that in February, 1910, King attempted to extort \$5,000 from her by threatening to give damaging testimony against her in the divorce suit she had filed. King was hired by Mrs. Tyson to get evidence against her husband.

King will be sentenced Friday.

Bizarre dancing has captured New York. It affords material for a timely and novel article in next Sunday's NEW YORK HERALD.

Mr. Hammerstein in City Court. Oscar Hammerstein was examined before trial in the City Court yesterday in an action in which Mayor Denick seeks to recover \$500 from Frank Velich, manager of the Theatre Francaise, Montreal.

Velich says he lost the \$500 because Mme. Tetrazini did not sing in his theatre as arranged with Mr. Hammerstein.

LAWYER, LL, DELAYS MR. HICHBORN SUES

RICHESON PLEADING

Appearance of Pastor Slayer in Boston Court Set for To-Day—Many Oppose Leniency.

WIFE FOR DIVORCE

Names Horace Wylie as Co-respondent, Asserting the Couple Journeyed Abroad Together.

[SPECIAL DESPATCH TO THE HERALD.] BOSTON, Mass., Monday.—Because of the illness of William A. Morse, of counsel for the Rev. Clarence V. T. Richeson, confessed slayer of Miss Avie Linnell, Richeson's appearance in court to plead guilty to murder in the first degree was postponed until to-morrow afternoon at one o'clock. It had been arranged for to-day. The District Attorney, Joseph C. Pelletier, conferred with Governor Foss to-day on the case, but would not divulge to-night what he told the Governor. The Governor does not expect formal application for commutation of sentence to life imprisonment for several weeks.

Despite the arrangement by which Richeson is to plead guilty, accept a sentence of death and appeal to the Governor, and his counsel for commutation the District Attorney is taking no chances on having a surprise sprung. He is still seeking Miss Violet Edmonds, Richeson's fiancée. The District Attorney believes Richeson's confession was made to save Miss Edmonds, from being forced into court as a witness.

There is a possibility that the Court to-morrow may inquire whether Richeson knew the consequences of his confession before signing it. This may result in an appointment of a commission to pass upon his mental condition. As soon as Richeson re-enters the jail after to-morrow's proceedings he probably will be placed under observation by alienists selected by the defense.

Some members of the Governor's Council it is said to-night have within the last twenty-four hours become doubtful about the political consequences of voting for a commutation of Richeson's sentence. Public sentiment is opposed to leniency in Richeson's case and newspapers all over Massachusetts are demanding that Richeson be sent to the electric chair.

"If a petition to commute his sentence were handed to me," said the Rev. Maurice A. Levy, pastor of the First Baptist Church of South Boston, who was to have officiated at the wedding of Richeson and Miss Edmonds, "I would not sign it."

and went to Canada, and thence to Europe, thereby deserting both himself and their son; also that "the petition is credibly informed and verily believes that she accompanied in her departure and journey— the co-respondent, Horace Wylie, who in December, 1910, also disappeared from the District of Columbia, deserting his own wife and children, with whom up to that time he had been residing in the city of Washington. It is now a matter of widespread public notoriety through the newspapers and otherwise (but not through any act or wish of this petitioner) that said defendant and the co-respondent eloped together and travelled and consorted together in the closest intimacy at New York, Quebec, Liverpool, London, Paris, Toulon, Monte Carlo and other places, and that no contradiction thereof has ever been attempted from any source.

Mr. Richeson charges that his wife and Mr. Wylie are now living together at some place to him unknown. He asks custody of the son. While the petition contains no mention of it, a report circulated to-day that Mr. Richeson feared embarrassment from the continued use of his name by his wife and that an effort would be made to prevent it. Whether the Court could permit Mrs. Richeson to drop her husband's name is uncertain.

Service of subpoenas upon Mrs. Richeson and Mr. Wylie may be delayed by the prevailing ignorance of their whereabouts.

WIFE, SHOT, ASKS DIVORCE. Presents Evidence That Husband, Harry S. Weems, of New York, Wounded Her and Himself.

PEITSBURG, Pa., Monday.—Mrs. Kathryn Weems, member of a prominent family of Bradford Pa., and sister of Raymond S. Wheeler, of St. Louis, appeared in divorce court here to-day asking for a separation from her husband, Harry S. Weems, of New York City. The present whereabouts of the respondent is unknown.

To Judge Shafer Mrs. Weems, who is about twenty-five years old, told of an alleged attempt of her husband to kill her and himself at the foot of the McKinley Monument at Buffalo, N. Y., August 24, 1908. Dr. Harry L. Devine, of Shelbyville, Ind., formerly connected with the Emergency Hospital, Buffalo, testified that Mr. and Mrs. Weems were brought to the hospital, the former with a bullet in his head and Mrs. Weems with three bullet wounds in her body.

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